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BEFORE THE ARIZONA CORPORATION COM

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2 Commissioners

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2008 SEP -8 A 11: 02

AZ CORP COMMISSION
DOCKET CONTROL

8 DOCKET NO. W-02824A-07-0388

9 IN THE MATTER OF THE APPLICATION OF ICR WATER USERS ASSOCIATION, AN
10 ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE
11 OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND
12 CHARGES FOR UTILITY SERVICE.

13
14 As a customer of ICR Water Users Association, I have prepared comments and
15 analysis of the Intervener, Dayne Taylor, requests. The attached document references a
16 presentation Dayne Taylor made to the customers of ICRWUA that was based on his
17 positions presented to the ACC.

18 The intent of the attached document is to shed additional light on the
19 characteristics of the ground water supplied through ICRWUA and the effluent supplied
20 from the ICR Sanitary District as a source of water for Talking Rock golf course.

23 **RESPECTFULLY SUBMITTED** this 1st day of September, 2008.25 By: 

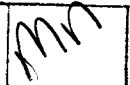
26 John M. Freeman
27 Resident, Inscription Canyon Ranch
28 5500 W Indian Camp Road
29 Prescott, Az, 86305
30

Arizona Corporation Commission

DOCKETED

SEP - 8 2008

DOCKETED BY



31 Original and thirteen (13) copies of the foregoing were mailed this 4th day of September,
32 2008 to:
33 Docket Control
34 Arizona Corporation commission
35 1200 West Washington Street
36 Phoenix, Arizona 85007
37

1 COPY of the foregoing mailed this 4th day of September, 2008 to:
2 Robert J. Metli
3 Snell & Wilmer, L.L.P.
4 One Arizona Center
5 400 East Van Buren Street
6 Phoenix, AZ 85004-2202
7 Attorneys for ICR Water Users Association, Inc.

8
9 Copy of the foregoing mailed this 4th day of September, 2008 to:
10 Jay L. Shapiro
11 Fennemore, Craig, P.C.
12 3003 North Central, Suite 2600
13 Phoenix, AZ 85012-2913
14 Attorney for Talking Rock Golf Club

15
16 Copy of the foregoing mailed this 4th day of September, 2008 to:
17 Dayne Taylor
18 13868 North Grey Bears Trail
19 Prescott, AZ 86305
20 Intervener in the Case
21

Support of ICR Water User Association's rate case.

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Letter To the Arizona Corporations Commission (ACC):

**As a resident of Inscription Canyon Ranch and a member of
the entire Community, I support the efforts of the Water Board
and have found that the Intervener case has many inaccuracies
and claims that are not merited. I am NOT a member of
TRGC.**

John Freeman

Challenges to Intervener's Positions:

Purpose of Comments on Dayne Taylor's presentation to the Community associated with Inscription Canyon Water Association:

The purpose of this document is to inform the Arizona Corporations Commission (ACC) and the Community* of inconsistencies that Dayne Taylor has presented when defending his Intervener efforts to the Arizona Corporations Commission and the Community. I will be reviewing pages presented by Dayne from his presentation that can be found on the Inscription Canyon Ranch Water User Association (ICRWUA) website: www.icrwua.com and as Appendixes in this document.

It is important to first note that Dayne Taylor, as Intervener in the ICR Water Rate Case, has also been a member of the Board of the ICR Sanitary district for a number of years. Dayne knows that water that comes into the sanitary plant as influent exits the sanitary plant as effluent and is used to water Talking Rock Golf Course (TRGC). Dayne also knows that at full-build-out the Inscription Canyon Sanitary District will become the largest source of water for the TRGC. Dayne forgot to mention any of this in his presentation and because of this oversight has overstated ground-water requirements numerous times throughout his presentation.

The Communities associated with the ICRWUA (a private company) and the ICR Sanitary District (a county entity) enjoy a closed-loop water system that recycles water used by residences through its sewage-treatment plant and can provide effluent to the golf course or replenish ground water sources. At full build-out, the effluent supply is anticipated to be between one to three times the water presently used by Talking Rock golf course (TRGC).

ICR Water District at Build-out

*Page 3 of the Dayne Taylor (Intervener) Presentation to the Community,
source of water supply and residential usage.*

A table shows (appendix A) that the combination of Inscription Canyon Ranch, Whispering Canyon, and the Preserve at the Ranch (the other developments) will have just under 800 residences at full build-out. Talking Rock Ranch (TRR) will have just over 1600 residences at full build-out.

The Intervener presents some “simple math” that states that the residences of TRR will consume approximately 6.5 million gallons of water per month while the other developments will only use 3 million gallons. It is not clear what the point of Intervener’s statement is, other than the more homes you have the more water you use. Did the Intervener mean to make the point that he opposes having more houses in TRR than all the other developments? The Intervener should make this point clear?

The actual numbers do not support Intervener’s simple math. In 2006 when there were only a few homes in TRR the water usage per residence for the entire Community of all the developments was around 187 gallons of water per day per residence. Now, the water usage for the entire Community is stated in Intervener’s presentation as 133 gallons per day. This is a drop in usage per residence of over 25 percent, on average. So how did that happen, or are there better numbers?

According to ICRWUA numbers, during 2006 in TRR, approximately 7 million gallons of water were used by as many as 107 homes. Another 2.5 million gallons were metered to landscaping not part of the golf course for a total of 9.5 million gallons. The average residential water consumption was 184 gallons per day and 250 gallons per day including common-space landscaping. Because of the steep

increase in homes in TRR, which can skew the actual residence usage during the year, a mean average for the year was taken to approximate the water usage level per residence, for this exercise.

In 2007 in TRR, the average residential consumption had dropped to approximately 130 gallons per day and 192 gallons with landscaping. The amount of common-space ground watering per residence remained relatively flat even with the addition of 50 percent more homes on average year-on-year in TRR. It is not known for this exercise whether common-landscaping will grow proportionately through the entire built-out but for this exercise using the additional water per residence is reasonable in order to compare TRR residential usage to the other developments.

Conversely, the other three developments in 2006 used 28,300,000 gallons which averaged approximately 317 gallons per residence. In 2007 the total water volume increased to just over 30,000,000 gallons, an average per residence of approximately 305 gallons.

When comparing the different developments usage levels, TRR use was more than 20 percent less than the other developments in 2006, and had dropped to more than 35 percent less in 2007. There are a couple of things that could be attributed to the lower water usage per residence at TRR: one would be the smaller lot size, even though the percentage includes common-landscape watering; the other could be linked to more residences in TRR being used as second homes than is the case in the other developments.

At the present run-rates TRR, at full build-out, would use approximately 9.3 million gallons per month of water for residences including common landscaping. For later discussion, the actual residence usage per month would be closer to 6.2 million gallons per month (this is important when the golf course watering is discussed next). Conversely, the other developments will be consuming approximately 7.2 million gallons per month. Some portion of this water would go to watering the larger

landscapes, nonetheless the water is being consumed. This makes less than a 30 percent increase for TRR over the other developments for ground water residential usage at full build-out. Not double as presented by Taylor.

Another measurement of winter versus pre-monsoon periods of July, 2007 showed that TRR, with 37 percent of the residences in the entire Community, used 29 percent of the residential water in the winter and 32 percent in July, less than their proportionate number of residences.

The most significant error in Dayne Taylor's presentation comes from the last statement on page 3, "*AND... The TR figure does not include the Golf Course's average need of just over 10M gallons per month.*" Because the entire analysis presented on page 3 is focused around "full build-out" information, the assumption is that the golf course will be using only ground water when the Community is at full build-out.

As explained, all the developments in the Community would be consuming approximately 13 million gallons of water per month with some of the water being used for landscaping in the other developments. It is probable to assume that upwards of 9 million gallons per month or 125 gallons per day per residence will make its way into the sewer system. The 133 gallons per day referenced by the Intervener would produce approximately 9.5 million gallons per month of influent on its way to the sanitary plant of which the Intervener is a board member. By ADEQ standards, these are very low numbers.

Using the present estimated run-rate of influent at full build-out of 9.5 million gallons per month, there would be nearly an equal effluent production that is available to water the golf course as there is present ground-water consumption by the golf course. The TRGC used approximately 130 million gallons of ground-water in 2007. The TRGC recently retired 10 percent of the sprinklers, reducing watering requirements to closer to 11.7 million gallons per month, or about the

same level as the conservatively projected effluent production at full build-out.

In the Intervener's last statement on page 3, the Intervener infers that TRGC will be using 10 million gallons per month of ground water to continue watering the golf course when in fact the Intervener, as member of the Sanitary District Board, knows this to be inaccurate. It is highly likely, with an 80-percent effluent to 20-percent ground water blend, that ICRWUA will be providing no more ground water at full build-out to TTR and TRGC for everything than they are using today at 10 percent build-out, or worse-case 20 percent build-out. This will be accomplished with more residences taking ground water, producing influent for the sanitary plant, which in turn produces effluent for the TRGC from all the developments, not just TRR. The TRGC should need less than 30 million gallons of ground water per year, or 2.5 million gallons per month. In manufacturing environments, this is known as a closed-loop process.

It is absolutely imperative that all water sources are included in the discussion regarding any equation associated with water consumption within the ICRWUA which includes the recycling of water from the ICR Sanitary District.

The Sanitary plant's effluent, albeit for landscape only, will be in the loop to provide more than one-third of the total water supply needed for the entire water demands within the entire Community. This is an important point when the TRGC is being measured as a source of water consumption. The effluent supply should be equal to or greater than any one well's production. In fact the source of effluent from the Sanitary District is the same has an additional well with a near-constant daily source of capacity.

Water Pricing Discussion:

Pages 5 and 13 of the Intervener Presentation, water pricing to residences versus golf course.

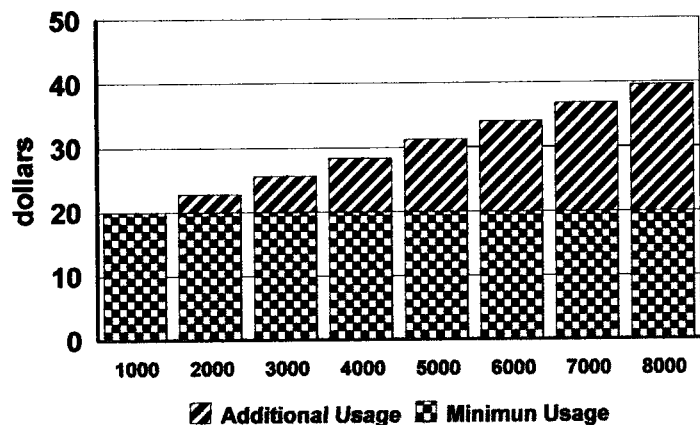
There are three points that the Intervener has made for requesting Intervener status shown in Appendix B and C. This section will focus on the water pricing claims made in the Intervener presentation. There will also be a discussion at the end regarding the methodology used to decide which wells to transfer and when the ICRWUA (although this may be considered subjective) brings into play the closed-loop water needs of the entire Community as it develops, not just the legal side. The third point of being in compliance with 64360 (discussed in the next section) is for the ACC to decide, but the other two components have some bearing on which way the ACC should go.

Intervener states that residences pay \$2.80 per 1,000 gallons where TRGC and TRR Construction pay four cents (\$0.04) per 1,000 gallons.

In actuality, to be accurate, the residences pay a minimum monthly fee of \$20 for the first 1,000 gallons and then \$2.80 per 1,000 over the minimum. When the minimum is consumed it equates to \$20 per 1,000.

There are land speculators that own properties within the Communities that do not

**Water Usage Charges (monthly)
residences**

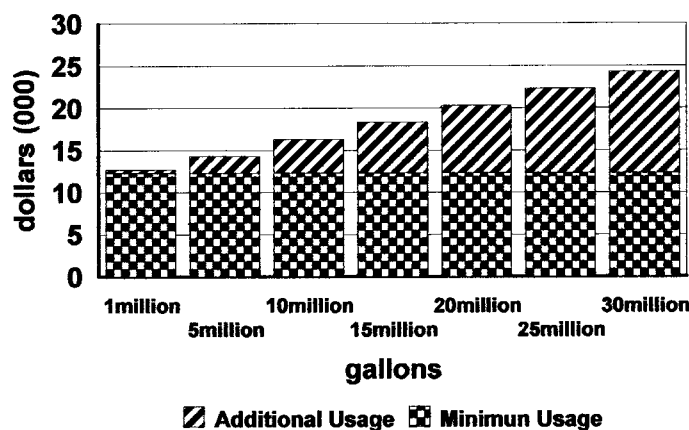


pay a minimum fee. The minimum fee is in some way associated with the infrastructure and maintenance. If a residence owner goes away for an extended period, that residence still pays the minimum fee for no water usage. It would seem logical that land owners (speculators) should do the same. Land speculation slows down the development process and makes it more difficult to manage the infrastructure costs for both water and sewer. The Sanitary District recently began charging all landowners a minimum fee to manage the infrastructure costs.

TRGC has paid their share of expenses, similar to a minimum fee, which is made up of costs paid by TRR over and above the water volume used plus water usage rate. The Intervener has not included these averaged usage expenses paid by TRR in their complaint. In 2007 TRR paid \$148,000 in expenses for producing water over the pumping rate of \$0.04 per 1,000 rate. When the expenses paid by TRR are applied to watering the golf course and broken down monthly, TRGC paid \$12,333, as the equivalent of an allocated minimum monthly rate. TRGC golf course used approximately 130 million gallons of water during 2007.

These additional payments mean that TRGC paid approximately \$1.14 + \$0.04 per 1,000 gallons of water, or 29.4 times more than the Intervener has stated in his presentation. The chart shows how the combination of the allocated minimum monthly fees and actual water usage charts similarly to residences who pay a fixed rate until they exceed the minimum usage. This chart is based on different usage levels with the fixed costs amortized as monthly payments, or linearized over the entire year.

**Water Usage Charges (monthly)
residences**



Preliminary information regarding water costs paid by Paradise Valley Country Club in Scottsdale known as "Turf rates" are \$0.85 per 1,000 gallons to water their golf course. This shows that at present TRGC is paying a 39 percent premium for golf course water when compared to Phoenix area golf courses. The purpose of showing the relationship between the two golf courses is to make an apples-to-apples comparison of relative costs for watering golf courses. The present financial contributions paid by TRGC in exchange for water to the golf course and operation of the equipment seems to be in line with other golf course environments.

The question arises why is the Intervener, Dayne Taylor, in his deposition ignoring all the costs paid by TRR/TRGC to support the ICRWUA? The upfront payments by TRR is not an unknown practice to Dayne Taylor. Dayne Taylor has been participating in the Sanitary District where Harvard Investments has been working with the ICR Sanitary Board to put in a new membrane treatment plant where the up-front costs would be provided by Harvard Investment which could be upwards of \$2 million (Dayne Taylor or Gene Leasure or Charley Tearney or Harvard Mgmt can verify the actual number). The point is that the Intervener, Dayne Taylor, is quite aware of the process of development funds being used in lieu of rate pricing.

Harvard Investment presently pays for many of the day-to-day material costs of the sanitary plant in lieu of effluent-water pricing. These points are being made because the entire Community of developments is only less than 20 percent built-out and there is an imbalance of infrastructure-cost-to-residences-fees at this early juncture. The point also supports the point that the Intervener has inaccurately stated the charges the TRGC pays for water.

On page 13, the Intervener states that TRGC only pays \$0.04 per 1,000 gallons for water from Well #1. The Intervener leaves out the \$1.14 per 1,000 paid into the operation of all the wells by TRR/TRGC.

What is relevant about Well #1 is that it can produce 171 million gallons of water per year, or 32 percent more than is needed to water TRGC. At the point of full build-out and as the Community evolves, TRGC would only need approximately 18 percent of the water capacity of Well #1 due to the increased use of effluent. In fact Well #1 can theoretically produce almost enough water to serve the water needs of all of the residences in the entire Community at full build-out, based on the present demographics of the Community. Conversely, the entire present Community of 450 residences' water demands, based on the 300 gallons per day used in the other developments and 200 gallons per day in TRR of this part of the analysis would only need approximately 26 percent of Well #1's capacity.

The fight over whether Well #1 or Well #3 should have been turned over to the ICRWUA is shown to be a premature concern when the capacity requirements of the Community and TRGC are weighed at this point in the Community's development cycle. Because the Community has a closed-loop water supply environment, the combination of well-water supply and effluent-water supply along with the mix of residences' demand and landscape/golf course demand need to be considered in order to ensure the private investment of each and EVERY homeowner/landowner is protected.

This collective of developments into one Community of equestrian, golf, and open space landscapes must be able to have a balanced source of water supply over the entire development cycle. This requires having the entire water flow of ground water and effluent managed in a way that meets the objectives of achieving complete build-out that includes the overall assurance of water supply. No one Well versus another should be parsed out in a disruptive fashion that would endangered the infrastructure of the Community with its varying lifestyle components. Presently, there is more than enough water targeted for TRR residences with the availability of Wells 2 and 3 to meet the growth demands through at least 1,000 homes, it would appear. Dedicating the usage of Well #1 to the golf course during the early stages of development helps

to propagate the development cycle of homes, because this development is all about people who want to play golf and/or have a country club lifestyle. Over time, the distribution of Well water and effluent will change.

The ICRWUA Board has recently offered a "petition" of committed priorities that they believe is what they were elected to uphold. One major priority is the assurance that homeowner residences have priority over TRGC for ground-water requirements.

Dayne Taylor's two points made to request Intervener Status by understating TRGC water tariff rates by more than 36 times the actual funds collected from TRR/TRGC along with the Well transfers lack merit. When all fees collected are accounted for, there is no case for additional fees for water used by TRGC for watering the golf course when compared to other golf course fees for water.

The management of the Wells and Effluent is a complex balance of changing needs as the Community expands. The first priority of sufficient ground water supply for residential use should be a coordinated effort of all active entities through the expansion process. The first question that should be asked is whether the Wells presently in the ICRWUA's control are sufficient to meet the residential needs of the TRR residences and for how long, including backup. Proper planning can dictate the distribution of Well usage as the Community evolves, adding more water for residences and generating more effluent for the golf course. The balance of water demands should also include the addition of effluent from the Sanitary District as a direct contributor to watering needs (for some reason the Intervener found it to his advantage to ignore the fact that effluent at full build-out will be equivalent or larger to the largest well within the Community). The inaccuracies provided by the Intervener and others suggests that the Intervener is not looking out for the best interests of TRR residents.

The Intervener raises the concern that he has waited six years to bring up discrepancies in the Well agreement, but feels comfortable hiding what contributions that the Santiary District's supply of effluent can bring to the Community. Why? These are not separate issues. This is a closed-loop Community when it comes to water requirements. Residents are investing in a Sanitary system when they buy property that will make a significant contribution to the overall sustainability of the Community.

People are investing their money in this Community because of its diverse lifestyle characteristics. As early as 1999, possibly earlier, the ICR sales office had displayed the overall development to include a golf course. In 1999 there were approximately 12 homes built. This means there were no surprises to any purchaser in ICR that a golf course was part of the long-term development of the Community. There are many people living in the Inscription Canyon Ranch development that purchased property and built homes with the expectation of belonging to a golf country club when it would be developed. It appears that there is a small group of residents, none of them from Talking Rock Ranch, bent on destroying the TRR development.

LOU Status:

The LOU not complying with Decision 64360

Much of the Intervener presentation (Appendix B) is around the discrepancies between the LOU and Decision 64360. Taylor finds it important to isolate these concerns while ignoring and hiding other pertinent information.

One of the concerns when I was a member of the Board for the Sanitary District was the complaint that there had been so many amendments to development plans and permits that there were legal briefs that would reference one set of documents that would benefit a case while ignoring others. For this reason I was able to get the Board to breakdown into TASK Managers of which I would managing getting a new Feasibility Study prepared so that there would be one set of documents to reference and negotiate from. To ensure that the proper interpretation of the Feasibility Study would occur without biases, an outside engineering firm was used to look at all the options. Harvard Investments agreed to have SWI prepare their roll-up of all the documentation that had transpired into a new Feasibility Study and FANN Environmental was used to interpret the document and how it would best meet the needs of the Community over time, or need adjustment.

After the Feasibility Study presentation there was a concern about how the influent capacity would meet the needs of the Community over time. Harvard agreed to listen to options that would permit higher capacity, possibly using other sanitary plant equipment than was committed to be supplied. The outcome has been a redesign to a completely new membrane system that will be more cost-effective to operate and have more than double the plant capacity potential than was previously planned.

Besides the substantial cost increase for Harvard to put this new Sanitary plant into service, the process of getting this change accomplished shows the need for this Community's planning to remain fluid so that it can adjust to the changing demographics of the Community and its role in the entire Prescott area's growth. The Intervener's last point on page 13 is "The only thing I'm sure of, regarding the LOU, is that it doesn't comply with Decision 64360." The Intervener wants to maintain a rigid position on ground water while working through a fluid process as a member of the Sanitary Board. This does not equate to looking out for the common good of the Community. The entire closed-loop water-resource environment needs to stay fluid in order to adapt to the changing demands of a Community of residences that will increase in size by more than 500 percent in the coming decades.

* Community - the collective developments of Inscription Canyon Ranch, Whispering Canyon, the Preserve at the Ranch, Talking Rock Ranch, and Talking Rock Golf and Country Club.

Background information

Professional background of John Freeman

A great deal of analysis has been presented in this document and it seems relevant to provide some professional and educational background of John Freeman to support the basis of the information provided:

- John Freeman is a graduate of Santa Clara University in Santa Clara, California. His undergraduate degree is in Humanities with a focus in State Department History with a minor in Art History.

John Freeman became a scientific programmer after taking an entrance exam at Systems Development Corporation (SDC), a spinoff of the non-profit think-tank the Rand Corporation. In the entrance exam, Freeman scored in the top one percent in the problem solving segment of the test. SDC put Freeman through a 400 hour computer-science training program, the equivalent of a computer science degree which qualified Freeman to be a part of a software development team developing a new operating system for flying second-generation unmanned satellites for the Air Force.

- After five years in the aerospace industry, Freeman joined Hewlett-Packard and developed the first on-line inventory control system on HP systems. This closed-loop inventory management system was integrated in every HP division worldwide.

Freeman then moved to marketing to head up the product strategy for HP's first laser printer. Freeman wrote key strategy papers on intelligent printer features that became the direction for HP's printer functionality. Freeman also wrote a key strategy paper on the market potential for consumables, such as toner, that now represents the most profitable segment of HP's business.

- Freeman gained international management experience as director of marketing for Fujitsu's peripheral division in the United States. Freeman then became the Vice President of marketing and sales for a spin-off start-up company between Kubota of Japan and Maxtor, a USA hard-drive company.
- For the past 16 years Freeman has been the president and founder of Strategic Marketing Decisions (SMD), a market research and consulting company that forecasts the optical disc drive and writable disc markets (CD, DVD). Freeman's clients have included major companies such as: IBM, HP, Sony, Philips, Toshiba, Bayer Chemical, Maxell, and nearly 50 others that annually subscribe to SMD forecasts. Freeman has advised major financial investment companies worldwide, including Warburg Pincus as well as the IFC branch of the World Bank.

A

**Residential Dwellings
at Build-out**

Inscription Canyon Ranch	356
Whispering Canyon	400
Preserve at the Ranch	38
Talking Rock Ranch	1,625
TOTAL	2,419

These figures show the customers/households the Water Users Association could have when they reach full build-out. At one time Talking Rock had forecast that they would achieve build-out in approximately ten years. They now say it could be 30 years or more.

Simple arithmetic with today's averages of about 4K gallons per house per month equates to TRR using 6.5 million gallons per day In comparison to the other three developments combined at just over 3M (less than half what TRR uses).

AND...the TR figure does not include the Golf Course's average need of just over 10M gallons per month.

Reason to request Intervener status

- **Water rate paid by Talking Rock Golf Club was not in compliance with AZ Corporation Commission Decision 64360.**
(Everyone pays \$2.80 per 1,000 gallons except Talking Rock Golf Club and Talking Rock Ranch Construction who pay less than \$0.04 per 1,000 gallons.)
- **There are issues with transfer of wells from TRR to ICRWUA.**
(ICRWUA received well #3 when well #1 was designated. Decision 64360 directed that within 365 days a back-up well also be provided.)

This slide shows the two main reasons I asked to be an Intervener.

Since 2001, I've attended and have had some involvement with the water board.

Knowing that there were discrepancies in the well agreement, I have been waiting six years for an opportunity to express my concerns with the Arizona Corporation Commission.

This opportunity presented itself when the Water Board filed for a rate increase in 2007.

Why should a for-profit golf course be allowed to pay greatly reduced rates from a not-for-profit water company—and use precious ground water besides?

And not only that, certain wells were not turned over to the water company, which directly contradicted the orders of the ACC.

C

Comments on ICRWUA

May 27, 2008 Letter

Quote from letter:

"Talking Rock Golf Club still owns the best producing well, Well #1. The ICRWUA believes that Well #1 is capable of producing nearly all the water needed to irrigate the golf course."

Response:

**Per the well agreement, all water pumped through Well #1 will provide revenue at the rate of 4 cents per 1,000 gallons
(525 acre feet = 171,071,775 gallons)
or 171,000,000 gallons per year x .04 = \$6,842.00.**

**If this water went to a homeowner, this income would be
171,000,000 x \$2.80 = \$478,800.00.**

In time, TRGC will be paying less to the company due to more effluent being available. And of course, this would also mean less demand on ground water.

In closing, I'd like to say that I feel we need to be firm in our stand that TR comply with Decision 64360,

and TR needs to line up the LOU with 64360.

They need to quit beating around the bush with "new" contracts, agreements, or perks to entice us to give them inequitable rates that are strictly to THEIR advantage.

My opinion is that there isn't a water customer in this room who is absolutely sure what the LOU consists of.

The only thing I'm sure of regarding the LOU is that it doesn't comply with Decision 64360.

Thanks for your time, and now I am going to turn it over to Bill Meyer.